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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,760	12/24/2003	Kentaro Tanaka	247035US6	8929
22850	7590	11/30/2007		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER WHIPKEY, JASON T	
			ART UNIT 2622	PAPER NUMBER
			NOTIFICATION DATE 11/30/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/743,760	<b>Applicant(s)</b> TANAKA, KENTARO	
	<b>Examiner</b> Jason T. Whipkey	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-4, 8, 10, 14-17, 20, 22 and 26-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4, 8, 10, 14-17, 20, 22 and 26-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 2-4, 8, 10, 14-17, 20, 22, and 26-45 have been considered but are moot in view of the new grounds of rejection.

### ***Specification***

2. The amendment to the title is approved and the corresponding objection is withdrawn.

### ***Claim Objections***

3. The amendment to the claims has overcome the objections to the claims. The objections are withdrawn.

### ***Claim Rejections - 35 USC § 101***

4. The amendment to the claims has overcome the rejection under 35 U.S.C. 101. The rejection is withdrawn.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3, 36-40, and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

**Claim 3** recites the limitation “the processor” on line 3. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, the claim will be treated as if it reads, “a processor”.

**Claims 36-40 and 42** are rejected because they are dependent upon claim 3.

7. The amendment to the claims has overcome the rejections under 35 U.S.C. 112, second paragraph, set forth in the previous Office action. Those rejections are withdrawn.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 2-4, 8, 14, 16, 27, 28, 30, 31, 33, 35, 36, 38, 40-43, and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Suda (U.S. Patent No. 6,388,707).

Regarding **claims 2, 4, and 27**, Suda discloses an imaging method comprising:

imaging a subject (OB in Figure 1B) and capturing an image of the subject (using CCD 19);

adjusting a focal length (using AF control microcomputer 29) and focusing on the subject (see column 8, lines 48-52) which is included in a first predetermined region (photometry frame 404 in Figure 4b; see column 12, lines 9-13) within an imaging range (screen frame 401);

receiving a designation (from line-of-sight detection circuit 6) regarding a position in the first region within the imaging range (see column 11, lines 60-63);

setting the first region at a position within the imaging range, whereby a center of the first region is located at a center of the imaging range if the position designation is not received (if the line of sight cannot be determined, the default rangefinding frame 404 is used; see column 12, lines 8-13), and upon receiving the position designation, the center of the first region being located at specified coordinates (402 in Figure 4a; see column 11, lines 58-67) and the range of the first region being set up is smaller than that of a case that the position designation is not received (see column 12, lines 8-13).

**Claim 3** can be treated like claim 2. Additionally, Suda discloses that microcomputer 29 controls the focusing process (see column 8, lines 48-67). It is inherent that the microcomputer operates using software that is stored in some manner.

Regarding **claims 8, 28, 31, and 36**, Suda discloses:

display means (EVF 24) for displaying the moving image obtained by imaging of the subject by the imaging means (see column 7, lines 36-43).

Regarding **claims 14, 33, and 38**, Suda discloses:

the focusing means adjust the focal length and focus on the subject if the imaging means take in the still image and if the position setting means set up the position of the first region (see column 11, lines 54-67).

Regarding **claims 16, 30, 35, and 40**, Suda discloses:

exposure adjustment means (diaphragm 10) for adjusting an exposure for a second predetermined region within the imaging range (the rangefinding frame 402 coincides with the photometry frame; see column 11, lines 58-67),

where the position setting means set up a position of the second region so that a center of the second region is positioned at a center of the first region that is set at an arbitrary position within the imaging range based on the position designation received by the reception means (the rangefinding frame 402 coincides with the photometry frame; see *id.*).

Regarding **claims 41-43 and 45**, Suda discloses:

if the position designation is received, the range of the first region setup is always smaller than that of the case that the position designation is not received (see column 12, lines 8-13).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 10, 22, 29, 32, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suda in view of Kaite (U.S. Patent No. 4,614,975).

**Claims 10, 22, 29, 32, and 37** can be treated like claims 8, 20, 28, and 31, respectively.

However, Suda is silent with regard to returning the region designation to its original state.

Kaite discloses a focus area changing circuit, including:

initialization means (preset circuit 60) for initializing the setup of the first region (a designated focus area) and returning the setup from a state where the position designation is received by the reception means to a state where the position designation is not received (see column 7, lines 61-66);

wherein the reception means further receives an instruction (from reset switch 604) to initialize the setup of the first region inputted by the user with a second method (see column 8, lines 10-27), and

the initialization means initialize the setup of the first region based on the instruction received by the reception means (see *id.*).

Using the known designation-resetting technique described by Kaite would improve the device disclosed by Suda in the same way — namely, such an improvement would result in the user not having to move area manually, thus saving time and effort. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Suda's system offer a means for initializing the location of the selected region.

12. Claims 15, 17, 20, 26, 34, 39, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suda.

**Claims 15, 34, and 39** can be treated like claims 14 and 33, respectively. However, Suda is silent with regard to prohibiting the adjustment of the focusing means if the focusing means is focused on the first region and the imaging means takes the still image.

Official Notice is taken that it was well known in the art at the time the invention was made to stop focus adjustment when a still image is being captured. An advantage of doing so is that a sharp image can be captured. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Suda's system prohibit the adjustment of the focusing means if the focusing means is focused on the first region and the imaging means takes the still image.



**Claim 17** can be treated like the combination of claims 4, 14, and 15.

Regarding **claim 20**, Suda discloses:

display means (EVF 24) for displaying the moving image obtained by imaging of the subject by the imaging means (see column 7, lines 36-43).

Regarding **claim 26**, Suda discloses:

exposure adjustment means (diaphragm 10) for adjusting an exposure for a second predetermined region within the imaging range (the rangefinding frame 402 coincides with the photometry frame; see column 11, lines 58-67),

where the position setting means set up a position of the second region so that a center of the second region is positioned at a center of the first region that is set at an arbitrary position within the imaging range based on the position designation received by the reception means (the rangefinding frame 402 coincides with the photometry frame; see *id.*).

Regarding **claim 44**, Suda discloses:

if the position designation is received, the range of the first region setup is always smaller than that of the case that the position designation is not received (see column 12, lines 8-13).

*Conclusion*

13. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:30 A.M. to 6 P.M. eastern standard time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye, can be reached at (571) 272-7372. The fax phone number for the organization where this application is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

Application/Control Number:  
10/743,760  
Art Unit: 2622

Page 10

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JTW

JTW

November 14, 2007



LIN YE  
SUPERVISORY PATENT EXAMINER